

**S.R. 542** - By Senator Farabee: Extending welcome to Dr. and Mrs. Earl Watson, and Lisa and Wayne Watson.

**S.R. 543** - By Senator Schwartz: Extending congratulations to communities which make up The Cradle of Texas in Brazoria County.

#### ADJOURNMENT

On motion of Senator Aikin the Senate at 11:48 o'clock a.m. adjourned until 10:00 o'clock a.m. tomorrow.

#### APPENDIX

##### Sent to Governor

(May 12, 1975)

**S.B. 249**

**S.B. 366**

**S.B. 878**

#### SEVENTY-SECOND DAY

(Tuesday, May 13, 1975)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santicsteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Harrington and McKnight.

A quorum was announced present.

The Reverend Murray Johnson, Ward Memorial Methodist Church, Austin, Texas, offered the invocation as follows:

Our Father God, we are indeed grateful for the blessings which You have bestowed on the people of the State of Texas. At this moment we pause to give Thee thanks for the dedication and services rendered by those elected to serve in the Senate of our state.

We ask Thy blessings on each and every member as decisions are made on behalf of the people of Texas. Deliver them from selfish consideration. Fill them with Thy wisdom and strengthen them with Thy spirit as they continue to represent the welfare of all the people of this great state.

And may Thy blessings of freedom and service continue to be with each Senator, with their families, and with all people of our state. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### **LEAVES OF ABSENCE**

Senator McKnight was granted leave of absence for today on account of illness on motion of Senator Moore.

Senator Harrington was granted leave of absence for today on account of important business on motion of Senator Schwartz.

#### **REPORTS OF STANDING COMMITTEES**

Senator Brooks submitted the following reports for the Committee on Human Resources:

**H.B. 1688**

**H.B. 208**

Senator Moore submitted the following reports for the Committee on State Affairs:

**S.B. 870** (Amended)

**S.B. 557** (Amended)

**S.B. 861**

**H.B. 1931**

**C.S.H.B. 275** (Read first time)

**C.S.S.B. 837** (Read first time)

Senator Aikin submitted the following reports for the Committee on Finance:

**S.B. 674**

**H.B. 2195** (Amended)

#### **SENATE BILLS AND RESOLUTION ON FIRST READING**

By unanimous consent the following bills and resolution were introduced, read first time and referred to the Committee indicated:

By Senator Lombardino:

**S.B. 1101**, A bill to be entitled An Act relating to designating Senior Citizens Day; and declaring an emergency.

To Committee on Administration.

By Senator Moore:

**S.B. 1102**, A bill to be entitled An Act relating to the lease of coal and lignite by certain political subdivisions; amending Section 1 of and adding Section 2b to Chapter 279, Acts of the 45th Legislature, Regular Session, 1937 (Article 5421p, Vernon's Texas Civil Statutes); and declaring an emergency.

To Committee on State Affairs.

By Senator Lombardino:

**S.B. 1103**, A bill to be entitled An Act relating to the compensation by the state of victims of certain crimes; and declaring an emergency.

To Committee on State Affairs.

By Senators McKnight and Harris:

**S.C.R. 74**, Creating a Special Committee to provide for placing of seals of six nations which have governed Texas on front portico of the State Capitol.

To Committee on Administration.

#### MESSAGE FROM THE HOUSE

Hall of the House of Representatives  
Austin, Texas, May 13, 1975

Honorable William P. Hobby  
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 179**, A bill to be entitled An Act repealing Chapter 657, Acts of the 61st Legislature, Regular Session, 1969 (Article 978j-3, Vernon's Texas Penal Code), relating to the taking of alligators; and declaring an emergency.

**S.B. 208**, A bill to be entitled An Act amending Section 3.04 of Chapter 67, Acts of the 59th Legislature, Regular Session, 1965, as amended by Chapter 688, Acts of the 61st Legislature, Regular Session, 1969 (codified as Section 3.04 of Article 5547-203 of Vernon's Texas Civil Statutes); relating to the requirement that meetings of Boards of Trustees of Community Centers for Mental Health and Mental Retardation Services be open to the public; and declaring an emergency.

**S.B. 231**, A bill to be entitled An Act relating to the requirement that a person

engaged in the business of propagating any game animal obtain a game breeder's license and the period of validity of the license; amending Section 1, Chapter 96, Acts of the 43rd Legislature, Regular Session, 1933, as amended (Article 978k, Vernon's Texas Penal Code); and declaring an emergency. (With amendment)

**S.B. 273**, A bill to be entitled An Act relating to security of a depository serving a water control and improvement district; amending Subsection (b), Section 51.356, Water Code; and declaring an emergency.

**S.B. 283**, A bill to be entitled An Act relating to the dissolution of the Nueces County Fresh Water Supply District No. 1 of Nueces County; and declaring an emergency.

**S.B. 212**, A bill to be entitled An Act authorizing the Texas Department of Mental Health and Mental Retardation to sell certain land located near Lufkin State School in Angelina County, Texas, for cash at public sale under certain conditions; providing that said land shall be sold with a reservation of the minerals; authorizing the Commissioner of Mental Health and Mental Retardation to execute and deliver the necessary conveyance providing that the Attorney General approves the form of such conveyance; providing that the net proceeds from such sale go to the General Revenue Fund; and declaring an emergency.

**S.B. 289**, A bill to be entitled An Act relating to the terms of court of the 187th District Court; amending Section 3.014, Judicial Districts Act of 1969 (Article 199a, Vernon's Texas Civil Statutes), by adding Subsection (c); and declaring an emergency.

**S.B. 326**, A bill to be entitled An Act relating to the abolishment of the Compensation Claim Board; repealing Article 75, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

**S.B. 327**, A bill to be entitled An Act relating to judgments held by the state against insolvent persons; repealing Article 4405, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

**S.B. 329**, A bill to be entitled An Act relating to financial reports required of state institutions of higher education; amending Section 51.005, Texas Education Code; and declaring an emergency.

**S.B. 355**, A bill to be entitled An Act relating to county regulation of parking; providing a penalty; and declaring an emergency.

**S.B. 363**, A bill to be entitled An Act amending Subchapter B, Chapter 87, Texas Education Code, by adding new Section 87.103 so as to place 110 acres, more or less, of land in Waller County near Prairie View A&M University, under the control and supervision of the Board of Directors of The Texas A&M University System, for the use and benefit of Prairie View A&M University; authorizing the Board of Directors to lease the land for mineral development and to apply the proceeds to the use and benefit of Prairie View A&M University; and declaring an emergency.

**S.B. 374**, A bill to be entitled An Act relating to the salary of the county engineer of Limestone County; amending Section 3, Chapter 53, Acts of the 50th Legislature, 1947, as amended; and declaring an emergency.

**S.B. 444**, A bill to be entitled An Act relating to the Wichita County Probation Department; changing the name of the department and certain of its personnel; making other provisions relative to the department; amending Chapter 405, Acts of the 55th Legislature, Regular Session, 1955, as amended (Article 5142a-2, Vernon's Texas Civil Statutes); and declaring an emergency.

**S.B. 455**, A bill to be entitled An Act relating to the lease, sale, and trade of unsold state land; amending Article 5331, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

**S.B. 456**, A bill to be entitled An Act relating to the disposition of improvements on state land; amending Article 5337, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

**S.B. 459**, A bill to be entitled An Act relating to the compensation of the Criminal District Attorney of Deaf Smith County; amending Section 7, Chapter 34, Acts of the 62nd Legislature, Regular Session, 1971 (Article 326k-64, Vernon's Texas Civil Statutes); and declaring an emergency. (With amendment)

**S.B. 471**, A bill to be entitled An Act relating to the exemption from bonding requirements of holders of Non-resident Seller's Permits and Manufacturer's Agent's Permits; amending Section 16, Article I, Texas Liquor Control Act, as amended (Article 666-16, Vernon's Texas Penal Code); and declaring an emergency.

**S.B. 492**, A bill to be entitled An Act relating to fees charged by the General Land Office; amending Article 3918, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

**S.B. 498**, A bill to be entitled An Act relating to the appointment of a qualified retired judge to sit for the regular judge of certain statutory courts in Dallas County; and declaring an emergency.

**S.B. 547**, A bill to be entitled An Act to facilitate the implementation of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary between the United States of America and the United Mexican States, which entered into force April 18, 1972, and the American-Mexican Boundary Treaty Act of 1972, Public Law 92-549 (86 Stat. 1161), approved October 25, 1972, and the construction of works required under the Treaty and the Act, by authorizing the Governor of the State of Texas to grant to the United States of America title and rights of the State of Texas to those portions of the bed and banks of the Rio Grande as may be necessary or expedient to implement and for the construction of works under the provisions of the Treaty and Act, subject to certain reservations and conditions in favor of the State of Texas pertaining to the mineral interests in the bed and banks of the Rio Grande; and declaring an emergency.

**S.B. 553**, A bill to be entitled An Act relating to pensions under the Texas County and District Retirement System, providing participating subdivisions of the system the authority to grant members of the system the right, under certain conditions, to apply for and receive retirement service credit for periods of military service during the time the United States was or is involved in organized conflict, for periods of military service for reasons of crisis within the United States, and within a period of 12 months thereafter; amending Paragraph (d), Subsection 11, Section 6, Chapter 127, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6228g, Vernon's Texas Civil Statutes); and declaring an emergency.

**S.B. 587**, A bill to be entitled An Act relating to a court administrator system for certain district courts; and declaring an emergency.

**S.B. 604**, A bill to be entitled An Act relating to the payment and disposition of royalties from oil and leases covering land leased by the school land board, a board for lease other than the Board for Lease of University Lands, and certain surface owners leasing Relinquishment Act land; amending Sections 1 and 2, Chapter 264, Acts of the 63rd Legislature, Regular Session, 1973 (Article 5344d, Vernon's Texas Civil Statutes); and declaring an emergency.

**S.B. 608**, A bill to be entitled An Act relating to audits of river authorities; repealing Section 7b, Chapter 293, Acts of the 48th Legislature, 1943 (Article 4413a-7b, Vernon's Texas Civil Statutes); and declaring an emergency.

**S.B. 685**, A bill to be entitled An Act relating to the development, production, and distribution of geothermal energy resources; amending Section 8, Chapter 271, General Laws, Acts of the 42nd Legislature, Regular Session, 1931, as amended (Article 5421c, Vernon's Texas Civil Statutes); and declaring an emergency. (With amendment)

**S.B. 699**, A bill to be entitled An Act relating to the creation of a juvenile board in each of the counties of Colorado, Lavaca, Gonzales, and Guadalupe; providing for a juvenile officer in each county; and declaring an emergency. (With amendment)

**S.B. 717**, A bill to be entitled An Act relating to the creation, membership, and functions of Chiropractic peer review committees and granting immunity; amending Chapter 6A, Title 71, Revised Civil Statutes of Texas, 1925, as amended, by adding Article 4512b(1); and declaring an emergency.

**S.B. 724**, A bill to be entitled An Act amending Section 1 of Chapter 112, Acts of the 58th Legislature, Regular Session, 1963, as amended (Article 5789, Section 7, Vernon's Texas Civil Statutes) by adding Subsection (e); and declaring an emergency.

**S.B. 728**, A bill to be entitled An Act relating to the financing of programs of agricultural commodity producers boards and to the commodities for which boards may be established; amending Section 2A and reenacting Sections 3, 5, 6, 8, 14, 14A,

15, 15A, 16, 17A, and 17B, Chapter 462, Acts of the 60th Legislature, 1967, as amended (Article 55c, Vernon's Texas Civil Statutes); and declaring an emergency.

**S.B. 751**, A bill to be entitled An Act relating to an increase in pension benefits for certain firemen and policemen; adding Section 26C, Chapter 105, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6243f, Vernon's Texas Civil Statutes); and declaring an emergency.

**S.B. 789**, A bill to be entitled An Act amending Section 85.01, Subchapter A, and Sections 85.11, 85.13, 85.14, and 85.15, Subchapter B, Chapter 85, Texas Education Code; and declaring an emergency.

**S.B. 806**, A bill to be entitled An Act amending Sections 60.038, 61.116 and 61.117 of the Texas Water Code, 1971, as last amended by Chapter 237, Acts of the 63rd Legislature, Regular Session, 1973, relating to the acquisition and disposition of state owned lands and flats by navigation districts; repealing laws in conflict; and declaring an emergency. (With amendment)

**S.B. 868**, A bill to be entitled An Act relating to disqualification of members of governing boards of certain districts created under Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution; amending Sections 50.024, 51.0721, 53.0631, and 54.1021, Water Code; providing a penalty; and declaring an emergency. (With amendment)

**S.B. 988**, A bill to be entitled An Act relating to the authority of the Trinity Bay Conservation District to regulate plumbing, sewers, and other drains within the district and to adopt, publish, amend, repeal, and enforce ordinances, rules, and regulations within the district; amending Sections 9 and 13, Chapter 282, Acts of the 51st Legislature, 1949 (Article 8280-135, Vernon's Texas Civil Statutes); providing a penalty; and declaring an emergency. (With amendments)

**S.B. 1008**, A bill to be entitled An Act authorizing the Texas Board of Mental Health and Mental Retardation to convey a certain sanitary sewer main and an easement in Wichita County to the City of Wichita Falls; and declaring an emergency.

**S.B. 1041**, A bill to be entitled An Act ratifying, confirming, approving and validating the creation and organization of Brazos County Municipal Utility District No. 1 and all actions taken by the Board of Directors of said district in organizing, selecting officers, authorizing, selling or issuing bonds of said district; all bonds heretofore voted, authorized, approved, sold or issued by said district and related matters; correcting an error in the legal description of the boundary of said district; providing a non-litigation clause; providing a savings clause; and declaring an emergency.

**H.B. 50**, A bill to be entitled An Act relating to rapid transit authorities; amending Sections 1 through 17, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes); providing penalties; and declaring an emergency.

**H.B. 197**, A bill to be entitled An Act relating to the Appointment of Special County judges in certain Counties; Adding Article 1934a; and declaring an emergency.

**H.B. 325,** A bill to be entitled An Act relating to the definition of the terms "necessary", "feasible and practicable", and "benefit to the land"; amending Section 54.001, Water Code, by adding Subdivisions (9), (10), and (11); and declaring an emergency.

**H.B. 326,** A bill to be entitled An Act relating to the authority of counties over certain municipal utility districts created within the counties but outside the extraterritorial jurisdiction of any city; amending the Water Code by adding Sections 54.0161, 54.2271, and 54.5161; and declaring an emergency.

**H.B. 352,** A bill to be entitled An Act relating to declination of party nomination, withdrawal of independent candidacy, death, and ineligibility of candidates in general and special elections held within the state; amending Section 60, Texas Election Code, as amended (Article 6.04, Vernon's Texas Election Code), relating to methods for making changes in printed ballots which are necessitated by or result from the death, declination, withdrawal, or ineligibility of candidates; amending Subsection (a), Section 104, Texas Election Code (Article 8.22, Vernon's Texas Election Code), relating to the printing of the name of a deceased or ineligible candidate on the ballot and the effect of votes cast for such a candidate; amending Section 233, Texas Election Code, as amended (Article 13.56, Vernon's Texas Election Code), relating to the declination of party nominations, the filling of vacancies in nomination caused by the death, declination, or ineligibility of nominees, the withdrawal of independent candidates, and the ballot status of party nominees and independent candidates who die, decline, withdraw, or are ineligible; and declaring an emergency.

**H.B. 413,** A bill to be entitled An Act validating and legalizing all special assessments and reassessments for street improvements levied or purported to be levied by any and all cities in the state and validating the proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments; validating and legalizing all special assessments or reassessments levied or purported to be levied by all cities in the state for improvements to sanitary sewer systems within their limits, or for improvements to water systems within their limits, either or both, against benefited properties and the owners thereof and validating the proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments; validating all assignable certificates of special assessment or special reassessment issued to evidence such assessments or reassessments; providing that nothing herein shall be construed as validating or legalizing any assessment lien for street or highway improvements against any interest in property exempt at the time the street or highway improvements were ordered from the lien of special assessment for the local improvements under the Constitution of the State of Texas or validating or legalizing any assessment lien for water or sewer improvements against any interest in property exempt at the time the lien became effective from the lien of special assessment for local improvements under the Constitution of the State of Texas; providing a nonlitigation clause; providing a severability clause; and declaring an emergency.

**H.B. 651,** A bill to be entitled An Act providing an administrative assistant to each of the judges of the County Criminal Court of Dallas County, the County Criminal Court No. 2 of Dallas County, the County Criminal Court No. 3 of Dallas County, the County Criminal Court No. 4 of Dallas County, the County Criminal Court No. 5 of Dallas County, and the County Criminal Court of Appeals of Dallas County; amending Section 9, Chapter 25, Acts of the 40th Legislature, Regular Session, 1927 (Article 1970-31.10, Vernon's Texas Civil Statutes), Section 9, Chapter 32, Acts of the 52nd Legislature, Regular Session, 1951 (Article 1970-31.11, Vernon's Texas Civil Statutes), Section 9, Chapter 49, Acts of the 53rd Legislature, First Called

Session, 1954 (Article 1970-31.12, Vernon's Texas Civil Statutes), Section 9, Articles 1 and 2, Chapter 227, Acts of the 63rd Legislature, Regular Session, 1973 (Articles 1970-31.13 and 1970-31.14, Vernon's Texas Civil Statutes), and Section 10, Chapter 326, Acts of the 57th Legislature, Regular Session, 1961 (Article 1970-31.20, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 685**, A bill to be entitled An Act amending Subsection (c), Section 25.07, Texas Education Code, so as to change the amount of surety bond requirement of a tax collector of a rural high school district having its own tax collector; and declaring an emergency.

**H.B. 793**, A bill to be entitled An Act relating to duties of persons hunting or taking wildlife resources; prohibiting the waste of wildlife resources; providing penalties; and declaring an emergency.

**H.B. 868**, A bill to be entitled An Act relating to the establishment of a juvenile board for Rockwall County; and declaring an emergency.

**H.B. 881**, A bill to be entitled An Act relating to the jurisdiction of the County Court of Titus County and the district courts having jurisdiction in Titus County; repealing Chapter 169, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 1970-330, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 890**, A bill to be entitled An Act relating to increasing filing and examination fees of trust companies and mortgage banking institutions; amending Subsections (a) and (b), Section 2, Chapter 658, Acts of the 60th Legislature, Regular Session, 1967, as amended (Articles 1513a, Vernon's Texas Civil Statutes); amending Sections 2 and 3, Chapter 241, Acts of the 61st Legislature, Regular Session, 1969 (Articles 342-951, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1039**, A bill to be entitled An Act exempting children of disabled firemen and peace officers from the payment of tuition and fees at state-supported institutions of higher education; amending Subsection (b), Section 54.204, Texas Education Code, as amended; and declaring an emergency.

**H.B. 1142**, A bill to be entitled An Act relating to salaries for personnel employed in regional day school programs for the deaf; amending Subsection (s), Section 11.10, Texas Education Code, as amended; and declaring an emergency.

**H.B. 1245**, A bill to be entitled An Act amending Acts 1927, 40th Legislature, page 228, Chapter 156, codified as Article 200a, Vernon's Annotated Civil Statutes of Texas, to authorize retired district judges to attend annual or special sessions of judges called by the presiding judge of the administrative district in which they reside and to provide for the payment of expenses for the attendance at such meetings; repealing all laws or parts of laws in conflict herewith; and declaring an emergency.

**H.B. 1278**, A bill to be entitled An Act relating to the importation, sale, transport, and release of noxious aquatic plants; providing for permits; providing penalties; and declaring an emergency.

**H.B. 1316**, A bill to be entitled An Act relating to deposits of revenue from mineral leases on park lands; amending Section 16, Chapter 325, Acts of the 52nd Legislature, Regular Session, 1951 (Article 5382d, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1321**, A bill to be entitled An Act requiring the Texas Water Quality Board to hold public hearings concerning the protection of Edwards Aquifer, as defined in this Act, from pollution; amending Subchapter C, Chapter 21, Water Code, as amended, by adding Section 21.098; and declaring an emergency.

**H.B. 1346**, A bill to be entitled An Act relating to inspection and certification by the commissioner of agriculture of the quality and other classification of livestock; and declaring an emergency.

**H.B. 1349**, A bill to be entitled An Act providing that jurisdiction may be acquired over a district created under the authority of either Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, by serving either the president or the general manager of the district; amending Chapter 50, Water Code, as amended, by adding Section 50.025; and declaring an emergency.

**H.B. 1372**, A bill to be entitled An Act relating to dispensing certain controlled substances by prescription; amending Subsection (d), Section 3.08, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1483**, A bill to be entitled An Act amending Chapter 44, Acts of the 57th Legislature, 3rd Called Session, 1962, relating to the Velasco Drainage District by amending Sections 2 and 5 thereof, respectively, and by adding a new Section 2A; validating acts and proceedings of the governing body of said district and validating all bonds heretofore issued and all bond elections heretofore held by said district except matters now involved in litigation which ultimately terminates unfavorably as to the validity thereof; finding that the requirements of Sections 59(d) and 59(e), respectively, of Article XVI of the Constitution of Texas have been fully met; containing other provisions relating to the subject; providing a severability clause; and declaring an emergency.

**H.B. 1494**, A bill to be entitled An Act relating to the duties of the County Attorney of Marion County and the District Attorney of the 76th Judicial District; providing for the impaneling of the grand jury in Marion County by the 115th District Court; amending Subdivision 76, Article 199, Revised Civil Statutes of Texas, 1925, as amended, by adding Subsection (d) to Section 5 and adding Section 7; amending Section 2, Chapter 150, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 199-115, Vernon's Texas Civil Statutes), by adding Subsections (d) and (e); amending Section 3, Chapter 181, Acts of the 61st Legislature, Regular Session, 1969 (Article 1970-322a, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1530**, A bill to be entitled An Act relating to the annexation by a city of property within its extraterritorial jurisdiction; amending Subdivision (a), Subsection B-1, Section 7, Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1540**, A bill to be entitled An Act relating to the labeling and sale of honey, honey products, and imitation honey; providing a penalty; and declaring an emergency.

**H.B. 1560**, A bill to be entitled An Act relating to penalties for disclosure of information and fraudulent assistance; repealing Section 34, The Public Welfare Act of 1941, as amended (Article 695c, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1561**, A bill to be entitled An Act relating to penalties for fraud in medical assistance; amending Section 12, The Medical Assistance Act of 1967, as amended (Article 695j-1, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 1570**, A bill to be entitled An Act relating to the issuance of bonds by the Harris County Flood Control District; amending Section 6, Chapter 360, Acts of the 45th Legislature, Regular Session, 1937; and declaring an emergency.

**H.B. 1579**, A bill to be entitled An Act relating to the mailing of notice to each claimant of water rights under the Water Rights Adjudication Act; amending Section 5.306(c) and Section 5.312(b) of the Water Code; and declaring an emergency.

**H.B. 1581**, A bill to be entitled An Act relating to the Kidney Health Care Act; amending Section 2, Subsections (2) and (13) of Section 3 and, Paragraph (a) of Section 9, Chapter 57, Acts of the 63rd Legislature, Regular Session, 1973 (Article 4477-20, Vernon's Texas Civil Statutes), and adding Section 9.1; and declaring an emergency.

**H.B. 1597**, A bill to be entitled An Act relating to the transfer of certain land to the Parks and Wildlife Department; and declaring an emergency.

**H.B. 1607**, A bill to be entitled An Act relating to the compensation and expenses for members of the Texas State Board of Podiatry Examiners; amending Article 4574, Revised Civil Statutes of Texas, 1925; repealing Section 5, Chapter 96, Acts of the 60th Legislature, 1967; providing severability; and declaring an emergency.

**H.B. 1618**, A bill to be entitled An Act amending Section 21.083(g) of the Water Code relating to entities which may be delegated the licensing function and administration of the licensing system of private sewage facilities; and declaring an emergency.

**H.B. 1619**, A bill to be entitled An Act relating to criminal penalties and prosecution of violations of Section 21.552 of the Texas Water Code occurring in conjunction with the operation of private sewage facilities, amending Section 21.553 and Section 21.556 of the Texas Water Code; and declaring an emergency.

**H.B. 1643**, A bill to be entitled An Act relating to the creation of and annexation of land to pollution control districts within the San Antonio River Authority and to the financing of these districts; amending Chapter 276, Acts of the 45th Legislature, Regular Session, 1937, as amended; and declaring an emergency.

**H.B. 1660**, A bill to be entitled An Act validating the incorporation and charter and charter amendment proceedings of cities and towns, including home-rule cities, heretofore incorporated or attempted to be incorporated under the Constitution or general laws of Texas; validating the boundary lines thereof, as said boundaries may have been changed by ordinance since the original incorporation; validating governmental proceedings; providing a nonlitigation clause; providing a saving clause; and declaring an emergency.

**H.B. 1699**, A bill to be entitled An Act designating a certain highway route as Wildflower Trail; and declaring an emergency.

**H.B. 1705**, A bill to be entitled An Act relating to county law libraries in certain counties; amending Section 1, Chapter 394, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1702j, Vernon's Texas Civil Statutes); and declaring an

emergency.

**H.B. 1893**, A bill to be entitled An Act relating to the approval by the commissioners court in certain counties of rules, regulations, or orders of the Parks and Wildlife Commission, and to the designation of the general law or the rules in effect for the prior year as the controlling law if the rules, regulations, or orders of the Parks and Wildlife Commission are not approved; amending Subsection b, Section 13, The Uniform Wildlife Regulatory Act, as amended (Article 978j-1, Vernon's Texas Penal Code); and declaring an emergency.

**H.B. 1953**, A bill to be entitled An Act relating to original and appellate jurisdiction in probate matters; amending Section 5, Texas Probate Code, as amended; and declaring an emergency.

**H.B. 2002**, A bill to be entitled An Act authorizing the issuance by the State of Texas, any department, board, agency, or instrumentality of the State of Texas, any municipal corporation, any political subdivision, any district, authority or other political corporation of the State of Texas having authority to issue public securities in a form having appertaining thereto coupons and being unregistrable, having appertaining thereto coupons and being registrable as to principal only or being fully registrable; defining public securities, defining fully registrable, providing for the exchange of such securities, providing that the registrar of fully registrable securities may be the Comptroller of Public Accounts or any banking corporation or association at which the principal of such public securities shall be payable; eliminating the necessity for approval by the Attorney General or registration by the Comptroller of Public Accounts upon exchange or upon change in form of such securities; providing other matters in the premises; providing for severability; and declaring an emergency.

**H.B. 2036**, A bill to be entitled An Act relating to membership on municipal retirement boards; amending Article 6229, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

**H.B. 2044**, A bill to be entitled An Act relating to the impounding, holding, and disposing of estrays; repealing Chapter 4, Title 121, Revised Civil Statutes of Texas, 1925; and declaring an emergency.

**H.B. 2055**, A bill to be entitled An Act relating to compensation of members of the Juvenile Board for Lamar County; amending Section 2, Chapter 359, Acts of the 55th Legislature, Regular Session, 1957 (Article 5139W, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 2141**, A bill to be entitled An Act relating to the abolition of the office of county school superintendent and the board of county school trustees in Cameron County; and declaring an emergency.

**H.B. 2158**, A bill to be entitled An Act relating to the membership and change of name of the Texas Board of Athletic Trainers and to the merger of the Texas Board of Athletic Trainers into the State Department of Health; amending Subdivision (2) of Section 1, Section 2, and Subsections (b) and (c) of Section 3, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 2162**, A bill to be entitled An Act relating to interest on bonds of the San Patricio Municipal Water District; amending Subsection (b), Section 7 and Section 9a, Chapter 373, Acts of the 52nd Legislature, 1951, as amended (Article 8280-145,

Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 2171**, A bill to be entitled An Act relating to the creation, administration, powers, duties, functions, and financing of the West Cedar Creek Municipal Utility District under Article XVI, Section 59, of the Texas Constitution; and declaring an emergency.

**H.B. 2173**, A bill to be entitled An Act relating to the compensation of the Criminal District Attorney of Victoria County and compensation to the county; amending Section 4, Chapter 398, Acts of the 60th Legislature, Regular Session, 1967 (Article 326k-59, Vernon's Texas Civil Statutes); amending Section 1, Chapter 396, Acts of the 63rd Legislature, Regular Session, 1973 (Article 332b, Vernon's Texas Civil Statutes); and declaring an emergency.

**H.B. 2177**, A bill to be entitled An Act providing for the maintenance of public roads in San Patricio County; amending Chapter 112, Acts of the 61st Legislature, Regular Session, 1969; and declaring an emergency.

**H.B. 2209**, A bill to be entitled An Act relating to the transfer of cases and exchange of benches by the judges of the county court and county courts at law in Bell County; amending Subsection (b), Section 5, House Bill 690, Acts of the 64th Legislature, Regular Session, 1975; and declaring an emergency.

**H.C.R. 73**, In memory of R. C. (Bob) Armstrong.

**H.C.R. 81**, Granting the Stokes Construction Company permission to sue the state.

**H.C.R. 102**, Congratulating 54 counties of the Texas Panhandle on 100th Anniversary Celebration in connection with Bicentennial Celebration of Nation.

**H.C.R. 111**, Endorsing and explaining the efforts of the Beef Development Taskforce.

**H.C.R. 113**, Directing the Texas Water Quality Board to join in legal action developed to relieve burden of food producers, feedlot operators, cities and towns resulting from ruling in National Resources Defense Counsel v. Russell Train, U.S. District Court for District of Columbia, regarding return flows and runoff water regulated by Public Law 92-500.

**H.C.R. 115**, Congratulating The Musical Drama "T E X A S" and staff on the opening of its tenth season.

**H.C.R. 120**, Granting permission to Blanche D. Moore to sue the State.

**H.C.R. 119**, Granting permission to Bob Crow to sue the State.

**H.C.R. 130**, Granting W. M. Burney and Charles R. Halstead permission to sue the State of Texas.

**S.C.R. 72**, Suspending Joint Rules 14 and 16 to permit either house to take up and consider **S.B. 52** and **H.B. 1126** at any time.

**S.C.R. 73**, Requesting the Governor to return **H.B. 602** to the Senate for further consideration.

The House concurred in Senate amendments to **H.B. 552** by record vote of 131 ayes, 2 nays, 4 present-not voting.

The House refused to concur in Senate amendments to **H.B. 398** and has requested the appointment of a Conference Committee to consider the differences between the two Houses. House Conferees: Jones of Harris, Chairman; Washington, Caraway, Evans, Wilson.

Respectfully submitted,  
DOROTHY HALLMAN  
Chief Clerk, House of Representatives

#### MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Sub-Committee on Nominations.

Austin, Texas  
May 13, 1975

TO THE SENATE OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

To be a Member of the Board of Regents of Texas Woman's University: For a six-year term to expire January 10, 1981: Dr. Lauro G. Guerra of McAllen, Hidalgo County is replacing Mrs. W. O. Bowers, III of San Antonio, Bexar County whose term expired.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

#### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 409

Senator Mauzy submitted the following Conference Committee Report:

Austin, Texas  
May 12, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 409** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MAUZY  
GAMMAGE  
FARABEE  
SCHWARTZ  
On the part of the Senate

RIBAK  
DONALDSON  
JOHNSON  
GILLEY  
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H.B. 732  
H.B. 750  
H.B. 1137  
H.B. 1293 (Again signed)  
H.B. 1388 (Again signed)  
H.B. 517  
H.C.R. 141  
S.C.R. 70

#### HOUSE BILL 2164 ON SECOND READING

On motion of Senator Gammage and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2164**, A bill to be entitled An Act relating to regulation of the planning, development, construction, modification, and expansion of certain health-care facilities and services; providing conforming amendments and repeals; and declaring an emergency.

The bill was read second time.

Senator Gammage offered the following amendment to the bill:

Amend **H.B. 2164**, as engrossed, as follows:

(1) At the end of Subdivision (11) of Section 1.03 (page 3, line 26), strike the period and add the following: "and his periodic review and redesignation."

(2) Strike Subdivision (1) of Section 2.06 (page 7, lines 20-21) and substitute the following:

"(1) administer a state certificate of need program as prescribed by this Act and to comply with federal law;"

(3) In Section 2.10, following "after consultation with the department," (page 9, line 10), insert "the Texas Department of Mental Health and Mental Retardation, the State Department of Public Welfare, and other appropriate health-related state agencies,".

(4) Strike Subdivision (2) of Subsection (b) of Section 3.06 (beginning on page 13, line 26) and substitute the following:

"(2) schedule a hearing on the application on a date not less than 61 days nor more than 70 days after the application is dated; except that on a showing of good cause by the applicant, the commission may delay the hearing to a date not more than 100 days after the application is dated;"

(5) Add a sentence to Subsection (d) of Section 3.09 (which ends on page 16, line 20) to read as follows: "However, if the date of the hearing was delayed pursuant to Section 3.06(b)(2) of this Act, the deadline for forwarding the record is extended accordingly."

(6) Strike Section 3.11 (page 18, lines 9-23) and substitute the following:

"Sec. 3.11. ORDERS OF COMMISSION. The commission shall either grant or deny a certificate of need by written order not later than the 90th day following the dating of the application, unless the date of the hearing was delayed pursuant to Section 3.06(b)(2) of this Act, in which case the deadline for the order is extended accordingly, or unless a later date is agreed on in writing by the applicant and the commission. Copies of the order must be forwarded to the applicant, the appropriate health systems agency, and the parties of record. Copies of the order and the record of the hearing shall be filed together in the office of the commission, indexed, and made available for public inspection."

(7) In Section 4.02, following "after consultation with the commission," (page 21, line 4), insert "the Texas Department of Mental Health and Mental Retardation, the State Department of Public Welfare, and other appropriate health-related state agencies,"

(8) On page 26, line 6, insert "and services" between "staff" and "assistance."

(9) On page 34, lines 3-5, strike ". In the event the Board employs a public health officer, he shall perform the duties assigned to him by the Board or the Director of Health Resources".

(10) Strike Subsection (a) of Section 6.02 (beginning on page 36, line 19) and substitute the following:

"(a) A person is eligible for an exemption certificate for a project under this Act who (1) within the period of 365 days immediately preceding the effective date of this Act filed an application for a health-care facility license, including submission of preliminary plans, and the agency approved the facility's preliminary plans, and (2) within 120 days after the effective date of this Act, applies for an exemption certificate. However, an exemption certificate issued under this section is void on and after February 1, 1976, if before that date the certificate holder has not begun development of the project, and it is void on and after January 15, 1977, if before that date the certificate holder has not placed on file with the commission an affidavit from the building department having jurisdiction indicating that substantial progress has been made on the project and the certificate holder has not placed on file with the commission a valid notice of construction completion indicating a completion date of not later than January 15, 1978, and certifying that the completed project is within the scope of the previously submitted and approved preliminary plans. An exemption certificate issued under this section shall be applicable only to that portion of the project actually completed within the time limits prescribed by this section. The commission may extend the foregoing time limits by not more than a total of one year if good cause is shown why an extension should be granted."

(11) Add a Subsection (c) to Section 6.02 (immediately before Section 6.03, which begins on page 37, line 23), to read as follows:

"(c) The commission may promulgate rules determined to be necessary for the administration and enforcement of this section."

(12) On page 38, line 21, strike "one citizen, one" and substitute "the chiropractor, the".

(13) Strike Section 6.05 (page 39, lines 1-3).

(14) Renumber Section 6.06 as Section 6.05 and strike "except as otherwise provided," on page 39, line 10.

The amendment was read and was adopted.

Senator Gammage offered the following amendment to the bill:

Amend **H.B. 2164** by striking all above the enacting clause and substituting the following:

**"A BILL TO BE ENTITLED**

**"AN ACT**

"relating to regulation of the planning, development, construction, modification, and expansion of certain health-care facilities and services; amending the Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes), by adding Section 2.24; Subsections (a) and (b), Section 91, Texas Mental Health Code (Article 5547-91, Vernon's Texas Civil Statutes); Subsection (a), Section 93, Texas Mental Health Code (Article 5547-93, Vernon's Texas Civil Statutes); The Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes), by adding Section 9A; Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), by adding Section 6A; Chapter 352, Acts of the 56th Legislature, Regular Session, 1959 (Article 4447c, Vernon's Texas Civil Statutes), by amending Sections 1-5 and 8 and adding Section 6A; and Chapter 42, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Articles 4414a, et seq., Vernon's Texas Civil Statutes), by amending Sections 1-5, 8, and 10, and adding Section 10A; repealing Sections 6, 7, and 9, Chapter 42, Acts of the 40th Legislature, 1st Called Session, 1927 (Articles 4418b, 4418c, and 4418e, Vernon's Texas Civil Statutes); Chapter 195, Acts of the 54th Legislature, 1955 (Article 4418b-1, Vernon's Texas Civil Statutes); Chapter 419, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4442c-1, Vernon's Texas Civil Statutes); and Section 6, Chapter 352, Acts of the 56th Legislature, Regular Session, 1959 (Article 4447c, Vernon's Texas Civil Statutes); and declaring an emergency."

The amendment was read and was adopted.

On motion of Senator Gammage and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**RECORD OF VOTE**

Senator Adams asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 2164 ON THIRD READING**

Senator Gammage moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2164** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harris, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Adams.

Absent: Jones and Mengden.

Absent-excused: Harrington and McKnight.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 1.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harris, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, Meier, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Adams.

Absent: Jones and Mengden.

Absent-excused: Harrington and McKnight.

#### SENATE BILL 466 ON SECOND READING

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 466**, A bill to be entitled An Act relating to the regulation of professional liability insurance; amending Article 5.13, Insurance Code, as amended and adding Article 5.15A to Chapter 5, Insurance Code, as amended; and declaring an emergency.

The bill was read second time.

Senator Schwartz offered the following Committee Amendment to the bill:

Amend **S.B. 466** by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. Article 5.13, Insurance Code, as amended, is amended to read as follows:

##### "Article 5.13. SCOPE OF SUB-CHAPTER

"This Sub-chapter applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyds or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called 'Insurer'; provided that nothing in this entire Sub-chapter shall ever be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 16 and 17 of this Code.

"This Sub-chapter applies to the writing of casualty insurance and the writing of fidelity, surety, and guaranty bonds, on risks or operations in this State except as herein stated.

"This Sub-chapter does not apply to the writing of motor vehicle, life, health, accident insurance, professional liability insurance other than professional liability insurance covering persons licensed to practice medicine in this state and hospitals licensed under the Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes), reinsurance, aircraft, fraternal benefit, fire, lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or opening in buildings or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or container, workmen's compensation, inland marine, ocean marine, marine, or title insurance; nor does this Sub-chapter apply to the writing of explosion insurance, except insurance against loss from injury to person or property which results accidentally from steam boilers, heaters or pressure vessels, electrical devices, engines and all machinery and appliances used in connection therewith or operation thereby.

"This Sub-chapter shall not be construed as limiting in any manner the types or classes of insurance which may be written by the several types of insurers under appropriate statutes or their charters or permits.

"The regulatory power herein conferred is vested in the Board of Insurance Commissioners of the State of Texas. Within the Board, the Casualty Insurance Commissioner shall have primary supervision of regulation herein provided, subject however to the final authority of the entire Board."

Sec. 2. Chapter 5 of the Insurance Code, as amended, is amended by adding a new Article 5.15A to read as follows:

"Article 5.15A. **PROFESSIONAL LIABILITY INSURANCE FOR PHYSICIANS AND HOSPITALS.** (a) Scope of Article. This article applies to every insurer licensed to write or engaged in writing professional liability insurance for any person licensed to practice medicine in this state or any hospital licensed under the Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes).

"(b) Determination of Rates. Rates shall be made in accordance with the following provisions:

"(1) To the extent deemed credible, primary consideration shall be given to past and prospective loss experience within this state and further, due consideration may be given to the past and prospective loss experience outside this state, to a reasonable margin for underwriting profit and contingencies, to dividends or savings allowed or returned by insurers to their policyholders or members, to past and prospective expenses both countrywide and those specifically applicable to this state and to all other relevant factors, including trend factors, within and outside this state.

"(2) Risks may be grouped by classifications, by rating schedules or by any other reasonable methods, for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

"(3) Nothing contained in this article or Chapter 5, Subchapter B of the Insurance Code concerning the regulation of rates, rating plans, and rating classifications shall, as applies to the writing of professional liability insurance for licensed hospitals and physicians, give the board the power to prescribe absolute rates; nor shall anything therein be construed as preventing the board from approving different rates for risks in a given classification or modified rates for individual risks made in accordance with rating plans, as filed by different insurers or organizations authorized to file such rates. As used in this subsection, 'absolute rates' mean rates, rating classification, or rating plans filed by an insurer or authorized rating organization and approved by the board in accordance with Chapter 5, Subchapter B, Insurance Code, which rates, rating classifications, or rating plans so filed and approved are required by the board to be used, to the exclusion of all others, by each insurer lawfully engaged in writing policies of insurance which fall within the filing approved by the board.

"(4) Rates shall be reasonable, not excessive, adequate, not unfairly discriminatory, and nonconfiscatory as to any class of insurer. No rate shall be held to be unreasonable or excessive unless such rate is unreasonably high for the insurance coverage provided and a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

"No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses; or unless such rate is unreasonably low for the insurance coverage provided and the use of such rate has, or if continued, will have, the effect of destroying competition or creating a monopoly.

"(5) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination separate expense provisions are applicable.

"(c) Filing of Rates and Rating Information. With respect to the filing of rates and rating information for insurance covering professional liability insurance for persons licensed to practice medicine and for licensed hospitals in this state, such filings shall be in accordance with the following provisions:

"(1) Such filings shall be made as provided in Subsections (a) and (b) of Article 5.15, Texas Insurance Code.

"(2) Any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the board and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber.

"(3) The information furnished in support of a filing may include:

"(A) the experience and judgment of the insurer or rating organization making the filing,

"(B) its interpretation of any statistical data it relies upon,

"(C) the experience of other insurers or rating organizations, or,

"(D) any other relevant factors.

The board shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped 'filed' within a reasonable time after receipt by the board, and copies may be obtained by any person on request and upon payment of the amount specified by law therefor.

"(4) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the board, or on a later date specified in the filing.

"(5) Under such rules and regulations as it shall adopt, the board may, by written order, suspend or modify the requirement of filing as to any subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders, rules, and regulations shall be made known to insurers and rating organizations affected thereby. The board may make such examination as it may deem advisable to ascertain whether any rates affected by such order are reasonably excessive, inadequate, or unfairly discriminatory or confiscatory.

"(6) Upon the written application of the insured, stating his reasons therefor, filed with the board, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

"(7) No insurer shall make or issue a policy or contract except in accordance with the provisions of this subchapter.

"(8) The board shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance agent, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. It shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which result in failure to comply with such filing.

"(9) Review of said rate filings by the board shall be made as follows:

"(A) Upon its own motion, or upon written request by any insured affected thereby or by any licensed insurance agent, insurer, or rating organization, or joint underwriting association, if such request is made in good faith and states reasonable grounds, the board, if it shall have reason to believe that any filing is not in compliance with the applicable provisions of Section (b) or in the case of an alleged violation of Section (d) if it finds on the basis of the information on file with the department that there has been a prima facie showing of a violation of that section, shall hold a hearing upon not less than 10 days' written notice to the rating organization or insurer which made the filing in issue, specifying the items and matters to be considered and stating in what manner and to what extent noncompliance is alleged to exist. No other matter or subject shall be considered at such hearing. Within a reasonable time, the board shall notify every person making request as to its decision as to the validity of the request and subsequently shall notify every such person of any action which may thereafter be taken with reference to such request.

"(B) If, after such hearing, the board finds that such filing is not in compliance with the provisions of Section (b) of this subchapter, it shall immediately issue a written order to the parties specifying in detail in what respects and upon what evidence such noncompliance exists and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

"(C) If, after such hearing, the board finds that such filing does not violate the provisions of Section (b), it shall immediately issue a written order to the parties dismissing the proceedings.

"(D) The finding and order of the board shall be made within 30 days after the close of such hearing or within such reasonable time extensions as may be fixed by the board.

"(E) No manual of classifications, rule, rate, rating schedule, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, which has been filed pursuant to this subchapter, shall be disapproved if the rates produced thereby meet the requirements of Section (b) of this subchapter.

"(d) Bad-Faith Filing.

"(1) A bad-faith filing as used in this subchapter means a rate filing made by any filer who, in bad faith, files a rate which it knows, or should know, is grossly inadequate for the insurance coverage provided, and which is filed and used for the

purpose of unfairly obtaining a particular risk or limited group of risks, and which is available only to such risk or limited group of risks.

"(2) If, after hearing, the board finds that the filer has made a bad-faith filing, based on the evidence adduced at the hearing and made a part of the record, it may order all policies written under such bad-faith filing to be rewritten at an approved rate from the date of the inception of such policies of insurance, or all such policies shall be cancelled pro rata in accordance with the policy provisions.

"(e) Rate Deviation Filings By Members and Subscribers.

"(1) Any member or subscriber to a rating organization may file with the board a deviation from the rates, rating schedules, rating plans, rating systems, or rules respecting any division, subdivision, classification, or any part or combination of any of the foregoing.

"(2) Such a filing shall specify the nature and extent of the deviation and shall be accompanied by the relevant information upon which the filer supports the deviation. The board shall have the right to request any additional relevant information.

"(3) Such deviation shall become effective upon compliance with the applicable provisions of Article 5.15, Texas Insurance Code, and the provisions of Section (c) of this article.

"(4) A deviation filing and supporting information shall be open to public inspection as soon as stamped 'filed' within a reasonable time after receipt by the Board and copies may be had by any person on request and upon the payment of a reasonable charge therefor.

"(f) Rate Adjustments Depending Upon Change in Relationship Between Proposed Rates and Anticipated Production Expense Portion Thereof.

"(1) When a filing or deviation involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, such filing or deviation shall be subject to the provisions of Paragraph (2) of this section.

"(2) Each filing or deviation subject to this section shall be on file for a waiting period of 20 days before it becomes effective. If within such waiting period or after hearing as provided in this section, the board finds that the filing or deviation does not meet the requirements of this subchapter, it shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval, specifying therein in what respects the filing or deviation fails to meet the requirements of this subchapter, and stating that the same shall not become effective. Such filing or deviation shall be deemed to meet the requirements of this subchapter unless disapproved (1) within such waiting period, or (2) if a hearing has been called and written notice thereof given by the board during such waiting period, then within 10 days after the date of commencement of such hearing. Upon its own motion, or upon timely written request any agent of the company or companies to which such filing or deviation is applicable, if such request is in good faith and states reasonable grounds, the board may at any time within the waiting period call a hearing upon not less than 10 nor more than 15 days' written notice to the company or rating organization making the filing or to the company filing the deviation. Within 10 days after the commencement of such hearing, the board shall in writing either approve such filing or deviation or shall disapprove the same as hereinabove provided.

"(g) Reporting of Claims and Claims Information.

"Each insurer who issues policies of professional liability insurance covering persons licensed to practice medicine in this state or hospitals licensed under the Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes), shall file annually with the State Board of Insurance a report of all claims and amount of claims, amounts of claims reserves, information relating to amounts of judgments and settlements paid on claims, and other information required by the board. The board is hereby empowered to formulate and promulgate a form upon which such

information shall be reported. The form shall be so devised as to require the information to be reported in an accurate manner, reasonably calculated to facilitate interpretation. Copies of this information shall be provided at cost to each insured on request.

“(h) Time for Filing Claims.

Notwithstanding any other law, no claim against a person or hospital covered by a policy of professional liability insurance covering a person licensed to practice medicine in this state or a hospital licensed under the Texas Hospital Licensing Law, as amended (Article 4437f, Vernon's Texas Civil Statutes) whether for breach of express or implied contract or tort, for compensation for a medical treatment or hospitalization may be commenced unless the action is filed within two years of the breach or the tort complained of from the date the medical treatment that is the subject of the claim or the hospitalization for which the claim is made is completed, except that a minor under the age of six years shall have until his eighth birthday in which to file, or have filed on his or her behalf, such claim. Except as herein provided, this section applies to all persons regardless of minority or other legal disability.

“(i) Annual Premiums.

“Policies of professional liability insurance under this article shall be written on not less than an annual premium basis.

“(j) Notice of Cancellation or Non-renewal.

“An insurer who issues a policy of professional liability insurance covered by this article shall give at least 90 days' written notice to an insured if premiums on the insurance are to be increased or the policy is to be cancelled or non-renewed. If the premiums are to be increased, the notice shall state the amount of the increase, and if the policy is to be cancelled or non-renewed, the insurer shall state in the notice the reason for cancellation.

“(k) Risk Apportionment Between Insurers.

“Agreements may be made among insurers with respect to the equitable apportionment among them of professional medical liability insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the terms of this subchapter. The provisions of this Subsection (k) shall be suspended as long as policies are being issued under the Texas Medical Liability Insurance Underwriting Association Act.”

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Mauzy offered the following amendment to the Committee Amendment:

Amend the Committee Amendment to S.B. 466 by striking Subsection (h), lines 58-64, page 5, and lines 1-9, page 6, and renumbering succeeding subsections accordingly.

The amendment to the Committee Amendment was read.

Senator Schwartz moved to table the amendment.

The motion to table prevailed by the following vote: Yeas 22, Nays 7.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Farabee, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, Mengden, Moore, Patman, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Clower, Doggett, Gammage, Mauzy, Meier, Ogg and Santiesteban.

Absent-excused: Harrington and McKnight.

Senator Meier offered the following amendment to the Committee Amendment:

Amend Committee Amendment 1 for **S.B. 466** by striking the language in Section 2 (H) that appears at line 5, page 6, which reads:

"Except that a minor etc." and continue striking the rest of the language in that Section through line 9.

The amendment to the Committee Amendment was read.

Senator Schwartz moved to table the amendment.

The motion to table prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Farabee, Hance, Harris, Jones, Lombardino, Longoria, McKinnon, Mengden, Moore, Patman, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Clower, Doggett, Gammage, Kothmann, Mauzy, Meier, Ogg and Santiesteban.

Absent-excused: Harrington and McKnight.

Senator Schwartz offered the following amendment to the Committee Amendment:

Amend Committee Amendment 1 to **S.B. 466**, Section 2 of the bill, Subsections (c)(9)(A), (E), (B), (F)(2) by changing the word "subchapter" to "Article"; and in (c)(9)(C) insert the words "of this article" after the word "Section (b)" on line 25 of page 4.

The amendment to the Committee Amendment was read and was adopted.

Senator Gammage offered the following amendment to the Committee Amendment:

Amend Committee Amendment 1 at page 6, by adding to Section 3 at line 40, the following language:

"This Act shall cease to be effective after May 31, 1977."

The amendment to the Committee Amendment was read.

On motion of Senator Schwartz the amendment was tabled.

The Committee Amendment as amended was then adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

#### RECORD OF VOTES

Senators Mauzy and Clower asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

#### SENATE BILL 466 ON THIRD READING

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 466 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Gammage, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Clower and Mauzy.

Absent-excused: Harrington and McKnight.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Gammage, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Clower and Mauzy.

Absent-excused: Harrington and McKnight.

#### CONFERENCE COMMITTEE ON HOUSE BILL 365

Senator Santiesteban called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 365 and moved that the request be granted.

The President asked if there were any motions to instruct the Conference Committee on S.B. 365 before appointment.

There were no motions offered.

The motion prevailed.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Santiesteban, Longoria, Ogg, Clower and Brooks.

**VOTE BY WHICH SENATE REFUSED TO  
CONCUR IN HOUSE AMENDMENTS  
TO SENATE BILL 86 RECONSIDERED**

Senator Moore moved that the Senate reconsider the vote by which the Senate refused to concur in the House amendments to **S.B. 86** and requested the appointment of a Conference Committee.

The motion prevailed.

**RECORD OF VOTES**

Senators Clower and Patman asked to be recorded as voting "Nay" on the motion to reconsider the vote by which the Senate refused to concur in House amendments to **S.B. 86**.

Question - Shall the Senate concur in the House amendments to **S.B. 86**?

Senator Ogg moved to postpone consideration of the motion to concur in the House amendments to **S.B. 86** until Tuesday, May 20, 1975.

The motion was lost by the following vote: Yeas 10, Nays 19.

Yeas: Adams, Aikin, Clower, Doggett, Mauzy, McKinnon, Meier, Ogg, Patman and Snelson.

Nays: Andujar, Braecklein, Brooks, Creighton, Farabee, Gammage, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, Mengden, Moore, Santiesteban, Schwartz, Sherman, Tracger and Williams.

Absent-excused: Harrington and McKnight.

Question recurring on the motion to concur, the motion prevailed by the following vote: Yeas 16, Nays 13.

Yeas: Andujar, Braecklein, Brooks, Creighton, Farabee, Gammage, Harris, Jones, Kothmann, Lombardino, Longoria, Mengden, Moore, Santiesteban, Tracger and Williams.

Nays: Adams, Aikin, Clower, Doggett, Hance, Mauzy, McKinnon, Meier, Ogg, Patman, Schwartz, Sherman and Snelson.

Absent-excused: Harrington and McKnight.

**SENATE BILL 306 WITH HOUSE AMENDMENTS**

Senator Jones called **S.B. 306** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### AMENDMENT NO. 1

Amend **S.B. 306**, official House printing, by striking all language beginning on line 21 after the word "amended" and all of line 22 and adding "but in no instance shall the rate of interest charged be usurious".

#### AMENDMENT NO. 2

Amend the Wilson Amendment to **S.B. 306** by striking all language beginning on line 21 after the word "amended" and all of line 22 and adding "but in no instance shall the rate of interest charged be in excess of ten per cent".

The House amendments were read.

Senator Jones moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

Senator Mauzy made the substitute motion that the Senate concur in the House amendments.

The motion to concur was lost by the following vote: Yeas 6, Nays 23.

Yeas: Braecklein, Clower, Doggett, Gammage, Mauzy and Patman.

Nays: Adams, Aikin, Andujar, Brooks, Creighton, Farabee, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Harrington and McKnight.

Question recurring on the motion not to concur in the House amendments and to appoint a Conference Committee to adjust the differences between the two Houses, the motion prevailed.

#### RECORD OF VOTES

Senators Mauzy and Gammage asked to be recorded as voting "Nay" on the motion not to concur in House amendments.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 306** before appointment.

Senator Mauzy moved that the Conference Committee be instructed not to accept a bill which permits interest charges in excess of ten percent.

The motion was lost by the following vote: Yeas 6, Nays 23.

Yeas: Braecklein, Clower, Doggett, Gammage, Mauzy and Patman.

Nays: Adams, Aikin, Andujar, Brooks, Creighton, Farabee, Hance, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, Meier, Mengden, Moore, Ogg, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Harrington and McKnight.

The President then announced the appointment of the following conferees on the part of the Senate on the bill: Senators Jones, Creighton, Harris, Adams and Schwartz.

#### HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committees indicated:

H.B. 413, To Committee on Intergovernmental Relations.  
H.B. 651, To Committee on Intergovernmental Relations.  
H.B. 1581, To Committee on Human Resources.  
H.B. 352, To Committee on State Affairs.  
H.B. 326, To Committee on Natural Resources.  
H.B. 325, To Committee on Natural Resources.  
H.B. 197, To Committee on Jurisprudence.  
H.B. 50, To Committee on Intergovernmental Relations.  
H.B. 1597, To Committee on State Affairs.  
H.B. 1570, To Committee on Natural Resources.  
H.B. 1579, To Committee on Natural Resources.  
H.B. 1530, To Committee on Intergovernmental Relations.  
H.B. 1142, To Committee on Education.  
H.B. 1483, To Committee on Natural Resources.  
H.B. 1494, To Committee on Intergovernmental Relations.  
H.B. 1372, To Committee on Human Resources.  
H.B. 1349, To Committee on Natural Resources.  
H.B. 1346, To Committee on Natural Resources.  
H.B. 1321, To Committee on Natural Resources.  
H.B. 1278, To Committee on Natural Resources.  
H.B. 1245, To Committee on Jurisprudence.  
H.B. 2209, To Committee on Intergovernmental Relations.  
H.B. 1039, To Committee on Education.  
H.B. 890, To Committee on Economic Development.  
H.B. 881, To Committee on Intergovernmental Relations.  
H.B. 868, To Committee on Intergovernmental Relations.  
H.B. 793, To Committee on Natural Resources.  
H.B. 685, To Committee on Intergovernmental Relations.

#### COMMITTEE SUBSTITUTE SENATE BILL 635 ON SECOND READING

Senator Farabee asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**C.S.S.B. 635**, A bill to be entitled An Act relating to Patient's Compensation Act of Texas; providing for certain definitions; providing that contracts of cure be in writing; relating to patient's remedy against health care provider who does not qualify; providing for place of filing of patient's claims and statement of dollar amount of claim in pleadings; providing the date Act is applicable to health care negligence claims; providing for a limitation of recovery on patient's claims; relating to advance payments by a defendant; providing for filing of proof of financial responsibility of health care providers; providing for a limitation period on the filing of claims against health care providers; providing for a patient's compensation fund; providing for an annual surcharge on health care providers to maintain the fund; relating to settlement of claims

against the fund; relating to attorneys fees; providing for the reporting of claims against health care providers to the Insurance Commissioner; relating to the maintenance of and provisions in policies of professional liability insurance for health care providers; providing for the establishment and operation of a health care review panel; declaring an emergency.

There was objection.

Senator Farabee then moved to suspend the regular order of business and take up **C.S.S.B. 635** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Aikin, Andujar, Bracklein, Brooks, Creighton, Farabee, Harris, Jones, Lombardino, Longoria, McKinnon, Meier, Mengden, Moore, Ogg, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Adams, Clower, Doggett, Gammage, Hance, Kothmann, Mauzy and Schwartz.

Absent-excused: Harrington and McKnight.

The President laid the bill before the Senate on its second reading and passage to engrossment.

The bill was read second time.

Senator Farabee offered the following amendment to the bill:

(Senator Brooks in the Chair)

Amend **C.S.S.B. 635** by striking all below the enacting clause and substituting the following:

Section 1. **SHORT TITLE.** This Act may be cited and known as the "Patients' Compensation Act of Texas".

Sec. 2. **DEFINITIONS.** As used in this Act, unless a different meaning appears from the context:

(a) "Health care provider" means any person, corporation, facility, or institution duly licensed by the State of Texas to provide health care or professional services as a physician, registered nurse, hospital, dentist, optometrist, podiatrist, chiropractor, pharmacist, or health facility (nursing home), or an officer, employee, or agent thereof acting in the course and scope of his employment, as defined by the statutes of the State of Texas.

(b) "Physician" means a person with an unlimited license to practice medicine in this State.

(c) "Patient" means a natural person who receives or is supposed to receive health care from a licensed health care provider, pursuant to contract, express or implied.

(d) "Hospital" means any duly licensed public or private institution, etc., as defined in Acts 1959, 56th Legislature, page 505, Chapter 233; Acts 1962, 57th Legislature, 3rd Called Session, page 92, Chapter 32, Subsection 2 (Article 4437f, V.A.T.S.).

(e) "Commissioner" means the Commissioner of Insurance of the State of Texas.

(f) "Representative" means the spouse, parent, guardian, trustee, attorney, or other legal agent of the patient.

(g) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

(h) "Health care negligence" means any tort or breach of contract based on health care or professional services rendered, or which should have been rendered, by a health care provider to a patient.

(i) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

(j) "Joint Underwriting Association" means the joint underwriting association established by the Texas Medical Liability Insurance Underwriting Association Act.

Wherever necessary to the context of this Act, the masculine shall mean and include the feminine and the singular shall mean and include the plural.

Any legal term or word of art used in this Act, not otherwise defined, shall have such meaning as is consistent with the common law.

**Sec. 3. CONTRACTS OF CURE TO BE IN WRITING.** No liability shall be imposed upon any health care provider on the basis of an alleged breach of contract, express or implied, assuring results to be obtained from any procedure undertaken in the course of health care, unless such contract is expressly set forth in writing and signed by such health care provider or by an authorized agent of such health care provider.

**Sec. 4. PATIENTS' REMEDY AGAINST HEALTH CARE PROVIDER WHO DOES NOT QUALIFY.** A health care provider who fails to qualify under this Act is not covered by the provisions of this Act and is subject to liability under the law without regard to the provisions of this Act. If a health care provider does not so qualify, the patient's remedy will not be affected by the terms and provisions of this Act.

**Sec. 5. PATIENTS' CLAIMS, WHERE FILED - NO DOLLAR AMOUNT TO BE STATED.** Subject to Section 13, a patient or his representative having a claim under this Act for bodily injury or death on account of health care negligence may file a complaint in any court of law having requisite jurisdiction and venue and demand right of trial by jury. No dollar amount or figure shall be included in the demand in any such complaint, but the prayer shall be for such damages as are reasonable in the premises.

**Sec. 6. DATE ACT APPLICABLE TO HEALTH CARE NEGLIGENCE CLAIMS.** The provisions of this Act do not apply to any act of health care negligence which occurred before July 1, 1975.

**Sec. 7. LIMITATION OF RECOVERY; ADVANCE PAYMENTS; PROOF OF FINANCIAL RESPONSIBILITY.**

(a) To be qualified under the provisions of this Act, a health care provider shall:

(1) file with the commissioner proof of financial responsibility as provided by Subsection (e) of this section in the amount of one hundred thousand dollars (\$100,000) or more; and

(2) pay the surcharge assessed by this Act on all health care providers according to Section 4 of this Act.

(b) (1) The total liability of any health care provider qualified under this Act, as a result of any claim by a patient alleging health care negligence, may not exceed \$100,000.

(2) The total amount recoverable by settlement or award from all liable health care providers and the patients' compensation fund for any injury or death of a patient may not exceed \$500,000.

(3) Any amount due for a judgment which is in excess of the total liability of all liable health care providers, as limited in Subsection (1) above, shall be the liability of the patients' compensation fund and payable therefrom.

(4) Any amount due from a settlement which is in excess of the total liability of all health care providers, as limited in Subsection (1) above, shall be the liability of the patients' compensation fund and payable therefrom. The amount for which the fund shall be liable as a result of any such settlement shall be determined in the manner provided in Section 9(c) of this Act.

(c) Except as provided in Section 9 (c), any advance payment made by the defendant health care provider or his insurer to or for the plaintiff, or any other person, may not be construed as an admission of liability for injuries or damages suffered by the plaintiff or anyone else in an action brought for health care negligence.

(d) Evidence of an advance payment is not admissible until there is a final judgment in favor of the plaintiff in which event the court shall reduce the judgment to the plaintiff to the extent of the advance payment. The advance payment shall inure to the exclusive benefit of the defendant or his insurer making the payment. In the event the advance payment exceeds the liability of the defendant or the insurer making it, the court shall order any adjustment necessary to equalize the amount which each defendant is obligated to pay, exclusive of costs. In no case shall an advance payment in excess of an award be repayable by the person receiving it.

(e) Financial responsibility of a health care provider under this section may be established only by filing with the commissioner proof that the health care provider is insured by a policy of professional liability insurance in the amount of at least one hundred thousand dollars (\$100,000) per occurrence.

Sec. 8. STATUTE OF LIMITATIONS. (a) No claim, whether in contract or tort, may be brought against a health care provider based upon professional services or health care rendered or which should have been rendered unless filed within two (2) years from the date of the alleged act, omission, or neglect, except that a minor under the full age of six (6) years shall have until his eighth birthday in which to file. This section applies to persons regardless of minority or other legal disability.

(b) Notwithstanding the provisions of Section 6, any claim by a minor or other person under legal disability against a health care provider stemming from professional services or health care rendered, whether in contract or tort, based on an alleged act, omission, or neglect which occurred prior to the effective date of this Act, shall be brought only within the longer of:

(1) Two (2) years of the effective date of this Act;

(2) The period described in Subsection (2) of this Section.

Sec. 9. PATIENTS' COMPENSATION FUND; ANNUAL SURCHARGE ON HEALTH CARE PROVIDERS; SETTLEMENT OF CLAIMS AGAINST THE FUND. (a) (1) There is created a patients' compensation fund to be collected and received by the commissioner for exclusive use for the purposes stated in this Act. The fund and income from it shall be held in trust, deposited in a segregated account, invested and reinvested by the commissioner in the types of investments and according to the limitations on each type as set forth in Articles 2.08 and 2.10 of the Texas Insurance Code and in any other investments specifically authorized by law for casualty insurance companies, and shall not become a part of the general fund of the state.

(2) To create the fund, an annual surcharge shall be levied on all health care providers in Texas. The surcharge shall be as determined by the commissioner based upon actuarial principles and shall not exceed ten percent (10%) of the cost to each health care provider for maintenance of financial responsibility. The surcharge shall be collected on the same basis as premiums by each insurer, and the joint underwriting association.

(3) Such surcharge shall be due and payable within thirty (30) days after the premiums for professional liability insurance have been received by the insurer and joint underwriting association from the health care providers in Texas. Before July 15, 1975, the commissioner shall send to each insurer a statement explaining the provisions of this section, together with any other information necessary for their compliance with this section.

(4) If the annual premium surcharge is not paid within the time limit above, the certificate of authority of the insurer shall be suspended until the annual premium surcharge is paid.

(5) All expenses of collecting, protecting, and administering the fund shall be paid from the fund.

(6) If the fund exceeds the sum of fifteen million dollars (\$15,000,000) at the end of any calendar year after payment of all claims and expenses, the commissioner shall reduce the surcharge provided in this section in order to maintain the fund at an approximate level of fifteen million dollars (\$15,000,000).

(7) All claims from the patients' compensation fund shall be computed on or before December 31 of the year in which the claim becomes final. All claims shall be paid on or before January 15. If the fund would be exhausted by payment in full of all claims allowed during a calendar year, then the amount paid to each claimant shall be prorated. Any amounts due and unpaid shall be paid in the following calendar year.

(8) The commissioner is hereby authorized to negotiate and enter into agreements of reinsurance on behalf of the patients' compensation fund under such terms and conditions as he deems reasonable and best calculated to maintain the financial soundness and stability of the fund.

(b) The state comptroller shall issue a warrant in the amount of each claim submitted to him against the fund. The only claim against the fund shall be a voucher or other appropriate request by the commissioner after he receives:

(1) a certified copy of a final judgment in excess of one hundred thousand dollars (\$100,000) against a health care provider; or

(2) a certified copy of a court approved settlement in excess of one hundred thousand dollars (\$100,000) against a health care provider. The amount paid from the fund may not exceed four hundred thousand dollars (\$400,000) for any single claim under any circumstances.

(c) If the insurer of a health care provider has agreed to settle its liability on a claim against its insured by payment of its policy limits of one hundred thousand dollars (\$100,000), and claimant is demanding an amount in excess thereof for a complete and final release, then the following procedure must be followed:

(1) A petition shall be filed by the claimant with the court in which the action is pending against the health care provider or, if none is pending, in the District Court of Travis County, seeking (A) approval of an agreed settlement, if any, or (B) demanding payment of damages from the patients' compensation fund.

(2) A copy of the petition shall be served on the commissioner, the health care provider, and his insurer, at least ten (10) days before filing and shall contain sufficient information to inform the other parties about the nature of the claim and the additional amount demanded.

(3) The commissioner and the insurer of the health care provider may agree to a settlement with the claimant from the patients' compensation fund, or the commissioner and the insurer of the health care provider may file written objections to the payment of the amount demanded. The agreement or objections to the payment demanded shall be filed within twenty (20) days after the petition is filed.

(4) The judge of the court in which the petition is filed shall set the petition for approval or, if objections have been filed, for hearing, as soon as practicable. The court shall give notice of the hearing to the claimant, the insurer of the health care provider, and the commissioner.

(5) At the hearing, the commissioner, the claimant, the health care provider or his representative, and the insurer of the health care provider may introduce relevant evidence to enable the court to determine whether or not the petition should be approved if it is submitted on agreement without objections. If the parties cannot agree on the amount, if any, to be paid out of the patient's compensation fund, then the court shall determine the amount of claimant's damages, if any, in excess of the \$100,000 already paid by the insurer of the health care provider. The court shall determine the

amount for which the fund is liable and render a finding and judgment accordingly. In approving a settlement or determining the amount, if any, to be paid from the patient's compensation fund, the court shall consider the liability of the health care provider as admitted and established.

(6) Any settlement approved by the court shall not be appealed. Any judgment of the court fixing damages recoverable in any such contested proceeding shall be appealable pursuant to the rules governing appeals in any other civil case tried by the court.

Sec. 10. ATTORNEY'S FEES. (a) When a plaintiff is represented by an attorney in the prosecution of his claim, the plaintiff's attorney's fees from any award made from the patients' compensation fund may be on a mutually satisfactory basis between the client.

(b) A patient has the right to elect to pay for the attorney's services on a mutually satisfactory basis other than a contingent fee basis. The election, however, must be exercised in written form at the time of employment of said attorney.

Sec. 11. REPORTING AND REVIEW OF CLAIMS. All health care negligence claims settled or adjudicated to final judgment against a health care provider shall be reported to the commissioner by the plaintiff's attorney and by the health care provider or his insurer within sixty (60) days following final disposition of the claim. The report to the commissioner shall state the following:

- (a) nature of the claim;
- (b) damages asserted and alleged injury;
- (c) attorney's fees and expenses incurred in connection with the claim or defense;
- (d) the amount of any settlement or judgment.

Sec. 12. PROFESSIONAL LIABILITY COVERAGE. (a) While professional liability insurance remains in force, the health care provider and his insurer are liable to a patient, or his representative, for health care negligence, only to the extent and in the manner specified in this Act.

(b) The filing of proof of financial responsibility with the commissioner shall constitute, on the part of the insurer, a conclusive and unqualified acceptance of the provisions of this Act.

(c) Any provision in a policy attempting to limit or modify the liability of the insurer contrary to the provisions of this Act is void.

(d) Every policy issued under this Act is deemed to include the following provisions, and any change which may be occasioned by legislation adopted by the Legislature of the State of Texas, as fully as if it were written therein:

(1) the insurer assumes all obligations to pay an award imposed against its insured under the provisions of this Act; and

(2) any termination of this policy by cancellation is not effective as to patients claiming against the insured covered hereby, unless at least thirty (30) days before the taking effect of the cancellation, a written notice giving the date upon which termination becomes effective has been received by the insured and the commissioner at their offices.

(e) If an insurer fails or refuses to pay a final judgment, except during the pendency of an appeal, or fails, or refuses to comply with any provisions of this Act, in addition to any other legal remedy, the commissioner may also impose the sanction set forth in Article 21.36, Texas Insurance Code.

Sec. 13. HEALTH CARE REVIEW PANEL. (a) Provision is hereby made for the establishment of health care review panels to review all health care claims against health care providers covered by this Act.

(b) No action against a health care provider may be commenced in any court of this state before the claimant's proposed complaint has been presented to a health care review panel established pursuant to this section and an opinion is rendered by the panel.

(c) Except as provided in Subsections (c) (5), the review panel shall consist of one (1) attorney and three (3) physicians who hold licenses to practice medicine. The attorney shall act in an advisory capacity and as chairman of the panel, but shall have no vote. The review panel shall be selected in the following manner:

(1) All physicians engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, who hold a license to practice medicine, shall be available for selection.

(2) Each party to the action shall have the right to select one (1) physician and upon selection, said physician shall be required to serve. The two (2) physicians thus selected shall select the third physician panelist.

(3) Where there are multiple plaintiffs or defendants, there shall be only one (1) physician selected per side. The plaintiff, whether single or multiple, shall have the right to select one (1) physician and the defendant, whether single or multiple, shall have the right to select one (1) physician.

(4) A panelist so selected shall serve unless for good cause shown he may be excused. To show good cause for relief from serving, the panelist shall be required to file an affidavit setting out the facts showing that service would constitute an unreasonable burden or undue hardship. The affidavit shall be filed with the judge of a court of requisite jurisdiction in the county in which venue would lie.

(5) If there is only one (1) party defendant, other than a hospital, two (2) of the panelists selected shall be from the same class of health care provider as the defendant.

(6) Within 10 days after notification of a proposed panelist by the plaintiff, the defendant shall select a proposed panelist.

(7) Within ten (10) days of any selection, written challenge, without cause, may be made to the panel member. Upon challenge, a party shall select another panelist. If two (2) such challenges are made and submitted, the judge of a court of requisite jurisdiction in the county in which venue would lie, shall appoint a panel consisting of three (3) qualified panelists and each side shall strike one (1) and the remaining member shall serve.

(8) The parties may agree on the attorney member of the panel, or if no agreement can be reached, then the attorney member shall be drawn by lot from the list of attorneys qualified to practice and presently on the rolls of the Supreme Court of the State of Texas. Upon request, the Clerk of the Supreme Court shall draw five names at random from the list of attorneys and the parties shall then each strike two (2) names alternately with the claimant striking first until both sides have stricken two (2) names and the remaining name shall be the attorney member of the panel.

(d) The evidence to be considered by the review panel shall be promptly submitted by the respective parties in written form only. The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses, including parties, and any other form of evidence allowable by the health care review panel. Depositions of parties and witnesses may be taken prior to the convening of the panel, pursuant to Rule 187, Texas Rules of Civil Procedure, concerning the taking of depositions prior to filing an action in a court of law.

(e) Either party, after submission of all evidence and upon ten (10) days notice to the other side, shall have the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of their report. The chairman of the panel shall preside at all meetings. Meetings shall be informal.

(f) The panel shall have the right and duty to request all necessary information. The panel may consult with medical authorities. The panel may examine reports of such other health care providers necessary to fully inform itself regarding the issue to be decided. Both parties shall have full access to any material submitted to the panel.

(g) The panel shall have the sole duty to express its expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint.

After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty (30) days, render one or more of the following expert opinions which shall be in writing and signed by the panelists:

(1) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(2) The evidence does not support the conclusion that the defendant or defendants failed to meet the applicable standard of care as charged in the complaint.

(3) That there is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury.

(4) The conduct complained of was or was not a factor of the resultant damages. And if so, whether the plaintiff suffered: (A) any disability and the extent and duration of the disability, and (B) any permanent impairment and the percentage of the impairment.

(h) The filing of the request for review of a claim shall toll the applicable statute of limitations to and including a period of ninety (90) days following the issuance of the opinion by the review panel. The request for review of a claim under this section shall be deemed filed when a copy of the proposed complaint is delivered or mailed by registered or certified mail to the commissioner, who shall immediately forward a copy to each health care provider named as a defendant at his last and usual place of residence or his office.

(i) Any report of the expert opinion reached by the review panel shall be admissible as evidence in any action subsequently brought by the claimant in a court of law, but such expert opinion shall not be conclusive and either party shall have the right to call, at his cost, any member of the review panel as a witness. If called, the witness shall be required to appear and testify. A panelist shall have absolute immunity from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by this article.

(j) Each member of the review panel shall be paid a per diem, at the rate of \$25.00 per day, not to exceed a total of \$250.00, for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in court, and in addition thereto, reasonable travel expenses. Fees of the panel, including travel expenses, shall be paid by the side in whose favor the majority opinion is written. If there is no majority opinion, then each side shall pay one-half (1/2) of the cost.

Sec. 14. EMERGENCY CLAUSE. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its effective date, and it is so enacted.

The amendment was read.

Senator Ogg offered the following amendment to the amendment:

Amend the Floor Amendment to **S.B. 635** by striking Section 13 in its entirety.

The amendment to the amendment was read.

(President in the Chair)

Question - Shall the amendment to the amendment be adopted?

**RECESS**

On motion of Senator Moore the Senate at 12:17 o'clock p.m. took recess until 1:30 o'clock p.m. today.

**AFTER RECESS**

The Senate met at 1:30 o'clock p.m., and was called to order by Senator Snelson.

**COMMITTEE SUBSTITUTE SENATE BILL 635 ON SECOND READING**

The Presiding Officer laid before the Senate as pending business **C.S.S.B. 635** with an amendment by Senator Ogg to the amendment by Senator Farabee pending.

Question - Shall the amendment to the amendment be adopted?

Senator Farabee moved to table the amendment to the amendment.

Question - Shall the amendment to the amendment be tabled?

**CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1219**

Senator Creighton submitted the following Conference Committee Report:

Austin, Texas  
May 12, 1975

Honorable William P. Hobby  
President of the Senate

Honorable Bill Clayton  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 1219** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

McKNIGHT  
CREIGHTON  
MOORE  
JONES  
HARRIS  
On the part of the Senate

BYNUM  
FINNEY  
BRYANT  
DONALDSON  
WILSON  
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

#### COMMITTEE SUBSTITUTE SENATE BILL 635 ON SECOND READING

The Senate resumed consideration of the pending business, same being C.S.S.B. 635 on its second reading and passage to engrossment with an amendment by Senator Ogg to an amendment by Senator Farabee pending.

Question - Shall the amendment to the amendment be tabled?

(President in the Chair)

#### BILLS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills:

S.B. 289

S.B. 59

#### MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Sub-Committee on Nominations:

Austin, Texas  
May 13, 1975

TO THE SENATE OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be Members of the Board of Directors of the Trinity River Authority: For a six-year term to expire March 15, 1981: The Honorable Larry G. Browder of Coldspring, San Jacinto County is replacing Mr. James Leslie Browder, Jr. of Coldspring, San Jacinto County whose term expired; Mr. Paul Hamilton Cauthan, Jr. of Trinity, Trinity County is being reappointed; Mr. Phillip N. Jeffers of Ferris, Ellis County is replacing Mr. Lynn B. Griffith of Waxahachie, Ellis County whose term expired; Mr. Donald F. Dean of Madisonville, Madison County is replacing Dr. Jesse B. Heath of Madisonville, Madison County whose term expired; Mr. F. L. Thompson of Leona, Leon County is replacing Mr. Dudley Wilson of Leona, Leon County whose term expired; Mr. Edward Nash of Kaufman, Kaufman County is being reappointed; Mr. Charles G. Purnell of Dallas, Dallas County is replacing Mr. Roy E. Pitts of Dallas, Dallas County whose term expired.

For a six-year term to expire March 15, 1979: Mr. Roy E. Pitts of Dallas, Dallas County is replacing Mr. Donald F. Dean of Madisonville, Madison County who resigned.

Respectfully submitted,  
DOLPH BRISCOE  
Governor of Texas

**HOUSE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions received from the House were read the first time and referred to the Committees indicated:

H.C.R. 81, To Committee on Administration.  
H.C.R. 119, To Committee on Administration.  
H.B. 2171, To Committee on Natural Resources.  
H.C.R. 102, To Committee on Administration.  
H.C.R. 111, To Committee on Natural Resources.  
H.C.R. 120, To Committee on Administration.  
H.C.R. 113, To Committee on Natural Resources.  
H.C.R. 130, To Committee on Administration.  
H.B. 2002, To Committee on Economic Development.  
H.B. 1618, To Committee on Natural Resources.  
H.B. 1607, To Committee on Human Resources.  
H.B. 1619, To Committee on Jurisprudence.  
H.B. 1643, To Committee on Natural Resources.  
H.B. 1660, To Committee on Intergovernmental Relations.  
H.B. 2173, To Committee on Intergovernmental Relations.  
H.B. 2162, To Committee on Natural Resources.  
H.B. 2158, To Committee on Human Resources.  
H.B. 2177, To Committee on Intergovernmental Relations.  
H.B. 2044, To Committee on Natural Resources.  
H.B. 2055, To Committee on Intergovernmental Relations.  
H.B. 1893, To Committee on Intergovernmental Relations.  
H.B. 1953, To Committee on Jurisprudence.  
H.B. 2036, To Committee on Intergovernmental Relations.  
H.B. 2141, To Committee on Intergovernmental Relations.  
H.B. 1699, To Committee on State Affairs.  
H.B. 1705, To Committee on Intergovernmental Relations.  
H.B. 1540, To Committee on Economic Development.

**NOTICES OF INTENT**

The following Notices of Intent were read and filed with the Secretary of the Senate:

Wednesday, May 14, 1975

H.B. 42 - Senator Mauzy (Third reading)  
C.S.H.B. 82 - Senator Mauzy (Third reading)  
H.B. 207 - Senator Clower  
H.B. 785 - Senator Moore  
H.B. 836 - Senator Ogg  
H.B. 1105 - Senator Ogg  
H.B. 1330 - Senator Snelson  
H.B. 1738 - Senator Farabee  
S.B. 5 - Senator Adams  
C.S.S.B. 69 - Senator Moore  
S.B. 96 - Senator Ogg (Third reading)  
C.S.S.B. 109 - Senator Mauzy  
C.S.S.B. 110 - Senator Mauzy  
C.S.S.B. 116 - Senator Mengden  
C.S.S.B. 117 - Senator Mengden

C.S.S.B. 162 - Senator Harris  
S.B. 172 - Senator Mengden  
S.B. 196 - Senator Santiesteban (Third reading)  
C.S.S.B. 250 - Senator Mauzy  
S.B. 257 - Senator Mauzy  
C.S.S.B. 343 - Senator Brooks  
S.B. 418 - Senator Ogg (Third reading)  
S.B. 430 - Senator Mengden  
C.S.S.B. 448 - Senator Mauzy  
S.B. 496 - Senator Mauzy (Third reading)  
S.B. 522 - Senator Santiesteban  
C.S.S.B. 526 - Senator Harrington  
C.S.S.B. 528 - Senator Traeger  
S.B. 549 - Senator Schwartz  
S.B. 581 - Senator Clower  
C.S.S.B. 627 - Senator Clower  
S.B. 635 - Senator Farabee (Unfinished business)  
S.B. 674 - Senator Hance  
C.S.S.B. 706 - Senator Mauzy  
S.B. 708 - Senator Mauzy  
S.B. 710 - Senator Mauzy (Third reading)  
S.B. 719 - Senator Mauzy  
S.B. 725 - Senator Patman  
S.B. 779 - Senator Mengden  
C.S.S.B. 781 - Senator Mengden  
S.B. 812 - Senator Santiesteban  
S.B. 879 - Senator Patman  
C.S.S.B. 880 - Senator Adams  
S.B. 899 - Senator Mauzy  
S.B. 905 - Senator Ogg  
C.S.S.B. 916 - Senator Harrington  
C.S.S.B. 939 - Senator Mauzy  
C.S.S.B. 965 - Senator Brooks  
C.S.S.B. 980 - Senator Mauzy  
C.S.S.B. 1034 - Senator Mauzy  
S.B. 1036 - Senator Harris  
S.B. 1065 - Senator Patman

#### MEMORIAL RESOLUTIONS

S.R. 548 - By Senator Snelson: Memorial resolution for Mrs. Richard B. Saxe, Sr.

S.R. 549 - By Senator Snelson: Memorial resolution for Mrs. Dorothy Smith Taylor.

S.R. 551 - By Senator Snelson: Memorial resolution for Mrs. Maud W. Green.

#### WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 545 - By Senator Farabee: Extending welcome to the Library Club of Rotan High School.

S.R. 546 - By Senator Patman: Extending welcome to the Taylor Czech Chorus.